

Message Text

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FM AMEMBASSY BELGRADE

TO SECSTATE WASHDC IMMEDIATE 3824

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LIMITED OFFICIAL USE BELGRADE 4226

E.O. 11652: N/A

TAGS: CPRS, PFOR, YO (SHEFFIELD, ALLAN CREIGHTON)

SUBJ:SCHEFFIELD EXTRADITION REQUEST

REF : BELGRADE 4193, STATE A-4611 AND PREVIOUS

1. SUMMARY: EMBASSY STILL DOES NOT HAVE COPY OF MUNICIPAL COURT DECISION. WE ARE MAKING ARRANGEMENTS TO DISCUSS CASE WITH ASSISTANT ATTORNEY GENERAL WHO REPRESENTED U.S. INTERESTS. NEGATIVE DECISION APPARENTLY BASED ON EITHER STATUTE OF LIMITATIONS OR JUDGMENT THAT HIJACKING NOT A CRIME WHEN IT OCCURRED OR BOTH. END SUMMARY.

2. CONOFF CONVERSATION WITH FSFA CONSULAR OFFICIALS AUGUST 12 ELICITED FOLLOWING ADDITIONAL INFORMATION ON SHEFFIELD CASE.

3. FSFA OFFICIALS DID NOT HAVE COPY MUNICIPAL COURT DECISION. THEY AGAIN PROMISED EFFORTS TO GET COPY ASAP.

4. CONOFF WAS INFORMED THAT USG REPRESENTED BY SERBIAN ASSISTANT ATTORNEY GENERAL LEVI. EMBASSY WILL DISCUSS CASE DIRECTLY WITH HIM AFTER ARRANGING MEETING THROUGH FSFA PROTOCOL OFFICE.

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5. FSFA OFFICIALS DID NOT KNOW WHEN SERBIAN REPUBLIC COURT WOULD REVIEW CASE, BUT SAID IT MOST LIKELY SOON AS SHEFFIELD CAN BE HELD IN JAIL ONLY UNTIL AUGUST 21 WHEN THREE-MONTH PERIOD AFTER MAY 21 PROVISIONAL ARREST EXPIRES.

6. FSFA OFFICIALS EMPHASIZED THEY HAVE NOT SEEN MUNICIPAL COURT DECISION BUT INDICATED IT THIER UNDERSTANDING DECISION BASED ON THREE FACTORS; (A) GOY DID NOT SIGN DECEMBER 1970 CONVENTION FOR SUPPRESSION OF UNLAWFUL SEIZURE OF AIRCRAFT UNTIL JUNE 30, 1972; (B) DOMESTIC LAW RELATING TO SKYJACKING NOT PASSED UNTIL SOMETIME IN 1973; AND (C) ARTICLE VII OF 1901 U.S.-SERBIA EXTRADITION TREATY WHICH READS IN PART "EXTRADITION SHALL NOT BE GRANTED ... IF LEGAL PROCEEDINGS ON THE ENFORCEMENT OF THE PENALTY FOR THE ACT COMMITTED BY THE PERSON CLAIMED HAS BECOME BARRED BY LIMITATION, ACCORDING TO THE LAWS OF THE COUNTRY TO WHICH REQUISITION ADDRESSED."

7. THEIR REASONING IS THAT SINCE AT TIME HIJACKING TOOK PLACE IN 1969 CONVENTION DID NOT EXIST AND GOY HAD NO DOMESTIC LAWS AGAINST HIJACKING; THEREFORE HIJACKING NOT A CRIME AT TIME IT TOOK PLACE. FSFA OFFICIALS ALSO STATED THEIR UNDERSTANDING THAT STATUTE OF LIMITATIONS IS FIVE YEARS.

8. COMMENT: CONFF AGAIN EXPRESSED STRONG DISPLEASURE THAT EMBASSY WAS NOT TOLD ABOUT MUNICIPAL COURT HEARING BEFORE IT TOOK PLACE AND THAT WE DID NOT HAVE OPPORTUNITY TO TALK WITH LAWYER REPRESENTING USG INTERESTS, ADDING THAT AMBASSADOR PERSONALLY TROUBLED IN RESPONSE CONOFF STATEMENT THAT AMBASSADOR VERY CONCERNED THAT DECISION MIGHT HAVE BEEN MADE ON POLITICAL GROUNDS, FSFA OFFICIALS STRONGLY MAINTAINED THAT NOT CASE. CONOFF TOLD THAT HEARING WAS NOT OPEN, THAT ONLY COURT OFFICIALS AND ASSISTANT ATTORNEY GENERAL LEVI PRESENT. SHEFFIELD NOT PRESENT AND APPARENTLY NOT REPRESENTED, DESPITE EARLIER ASSURANCES THAT HE WOULD BE REPRESENTED BY PUBLIC DEFENDER. COURT DID HAVE WRITTEN STATEMENT FROM SHEFFIELD. FSFA OFFICIALS EMPHASIZED COURT DECISION LIMITED OFFICIAL USE

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BASED ON DOCUMENTS WHICH USG PROVIDED AND APPLICABLE INTERNATIONAL AND DOMESTIC LAWS.

9. WILL REPORT FURTHER ASSESSMENT AFTER DISCUSSION WITH LEVI.
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